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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,929	07/05/2001	Yoshiko Tamaki	ASAM.0011	1831
38327	7590	01/26/2006	EXAMINER	
REED SMITH LLP 3110 FAIRVIEW PARK DRIVE, SUITE 1400 FALLS CHURCH, VA 22042			DOAN, DUYEN MY	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/897,929	TAMAKI ET AL.	
	Examiner	Art Unit	
	Duyen M. Doan	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,7 and 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-5, 8-10 are cancelled.

Claims 6-7, 11-21 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choquier et al (us pat 5,774,668) (hereinafter Choquier) in view of Maruyama et al (us pat 6,857,025) (hereinafter Maruyama).

As regarding claims 6, 7 Choquier discloses setting from each user a virtual IP address to be used as an access destination address of a process request packet, as an address to be used for accessing the user system in the computer system (see Choquier col.1, lines 41-67; col.7, lines 42-51; col.20, lines 13-60; col.22, lines 27-56; col.23, lines 17-67; col.24, lines 15-54), determining from the process request packet which of an access source IP address and an access destination IP address in the process request packet is used as information necessary for identifying a user related to the process request packet, and urging each user to input the virtual address (see Choquier col.1, lines 41-67; col.7, lines 42-51; col.20, lines 13-60; col.22, lines 27-

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56; col.23, lines 17-67; col.24, lines 15-54); locating a computer for processing the process request packet supplied from each user and recording a history of the number of allocated computers (see Choquier col.1, lines 41-67; col.7, lines 42-51; col.20, lines 13-60; col.22, lines 27-56; col.23, lines 17-67; col.24, lines 15-54).

Choquier does not expressly disclose for a use contract between each user and the computer system; urging each user to input a service level condition as a portion of the use contract, the service level condition including at least upper and lower limits of the number of computers allocated to process the process request packet supplied from each user.

Maruyama teaches for a use contract between each user and the computer system (see Maruyama col.1, lines 41-57, Service level agreement with guarantee service (max,min), col.3, lines 1-51); urging each user to input a service level condition as a portion of the use contract, the service level condition including at least upper and lower limits to process the process request packet supplied from each user (see Maruyama col.1, lines 41-57, Service level agreement with guarantee service (max,min), col.3, lines 1-51).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Maruyama to the method of Choquier to have the service level agreement with upper and lower limits because by having the SLA between the client and the provider would provide assurance to the client that they will get the guarantee resources and the provider maintain that level of service to the customer (see Maruyama col.1, lines 38-45).

Claims 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choquier et al (us 5,774,668) in view of Bowman-Amuah (us pat 6,707,812) (hereinafter Bowman).

As regarding claim 11, Choquier discloses A computer resource allocating method for a computer system having a plurality of computers interconnected via a network and processing a request from each of a plurality of users, the method automatically changing a computer allocation to each user (see Choquier col.1, lines 41-67; col.7, lines 42-51; col.20, lines 13-60; col.22, lines 27-56; col.23, lines 17-67; col.24, lines 15-54), and the method comprising the steps of: monitoring an operation state of the computer resources (see Choquier col.1, lines 41-67; col.7, lines 42-51; col.20, lines 13-60; col.22, lines 27-56; col.23, lines 17-67; col.24, lines 15-54).

Choquier does not expressly disclose comparing the operation state with a service level of each user; judging from the comparison whether a computer allocation to each user is to be changed; changing a computer allocation table of each user; and changing charge information in accordance with a change in the computer allocation.

Bowman teaches comparing the operation state with a service level of each user (see Bowman col.21, lines 48-61; col.22, lines 19-62; col.24, lines 1-21); judging from the comparison whether a computer allocation to each user is to be changed (see Bowman col.21, lines 48-61; col.22, lines 19-62; col.24, lines 1-21); changing a computer allocation table of each user (see Bowman col.21, lines 48-61; col.22, lines

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19-62; col.24, lines 1-21); and changing charge information in accordance with a change in the computer allocation (see Bowman col.21, lines 48-61; col.22, lines 19-62; col.24, lines 1-21).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Bowman to the method of Choquier to change the allocation table and change the charge to the user, because by changing the allocation table and changing the charge information would benefit the client by ensuring the quality of service base on the service level agreement between the user and the provider. The user is charged for only the resources that he/she actually uses (see Bowman col.21, lines 40-61, col.22, lines 19-62).

As regarding claim 12, the limitations are similar to claim 11, therefore rejected for the same rationale as claim 11.

As regarding claim 13, Choquier-Bowman discloses wherein the computer system further comprises a plurality of load allocating means, and the method further comprises the steps of setting the changed computer allocation table of each user to the load allocating means, and of standing by until the setting at all of the plurality of load allocating means is completed (see Bowman col.21, lines 48-61; col.22, lines 19-62; col.24, lines 1-21). The same motivation was utilized in claim 11 applied equally well to claim 13.

As regarding claim 14, Choquier-Bowman discloses wherein the plurality of computers include a plurality of computer groups having different functions; the computer allocation allocates computers belonging to the same computer group, and

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when the computer resources of some computer group are to be increased, computers are selected from the same computer group (see Choquier col.1, lines 41-67; col.7, lines 42-51; col.20, lines 13-60; col.22, lines 27-56; col.23, lines 17-67; col.24, lines 15-54).

As regarding claim 15, the limitations are similar to claim 11, claim 15 further discloses changing the root file name of each computer (see Choquier col.24, lines 15-53). The same motivation was utilized in claim 11 applied equally well to claim 18.

As regarding claims 16-17, the limitations are similar to claim 11, therefore rejected for the same rationale as claim 11.

As regarding claim 18, the limitations are similar to claim 15, claim 18 further discloses judging from the comparison whether the time rate divisional operation is change, change time rate divisional table (see Bowman col.21 lines 39-61, verify compliance/non-compliance SLA to determine the rating and the billing). The same motivation was utilized in claim 11 applied equally well to claim 18.

As regarding claim 19, the limitations are similar to claim 18, therefore rejected for the same rationale as claim 18.

As regarding claims 20-21, the limitations are similar to claim 12-14, therefore rejected for the same rationale as claim 12-14.

Response to Arguments

Applicant's arguments, see 10-16, filed October 21, 05 with respect to the rejection(s) of claim(s) 6-7, 11-21 under 103 (Bovie (6842783) in view of Howe (6445704)) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Choquier and Maruyama regarding claims 6-7 (see the above rejection for detail). Claims 11-21 are rejected in view of Choquier (us pat 5774668) and Bowman (us pat 6707812). See the above rejection for detail.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M. Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner
Duyen Doan
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JEFFREY PWU
PRIMARY EXAMINER